

## House File 378 - Introduced

HOUSE FILE 378

BY DONAHUE, MASCHER,  
HUNTER, ANDERSON, STAED,  
ABDUL-SAMAD, WILBURN, and  
BENNETT

### A BILL FOR

1 An Act relating to arrests by private persons.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 804.6, Code 2021, is amended to read as  
2 follows:

3 **804.6 Persons authorized to make an arrest.**

4 An arrest pursuant to a warrant shall be made only by a  
5 peace officer; ~~in other cases, an arrest may be made by a peace~~  
6 ~~officer or by a private person~~ as provided in **this chapter**.

7 Sec. 2. Section 804.10, Code 2021, is amended to read as  
8 follows:

9 **804.10 Use of force by private person assisting peace officer**  
10 **in arrest by private person.**

11 ~~1. A private person who makes or assists another private~~  
12 ~~person in making a lawful arrest is justified in using any~~  
13 ~~force which the person reasonably believes to be necessary to~~  
14 ~~make the arrest or which the person reasonably believes to be~~  
15 ~~necessary to prevent serious injury to any person.~~

16 ~~2.~~ A private person who is summoned or directed by a peace  
17 officer to assist in making an arrest may use whatever force  
18 the peace officer could use under the circumstances, provided  
19 that, if the arrest is unlawful, the private person assisting  
20 the officer shall be justified as if the arrest were a lawful  
21 arrest, unless the person knows that the arrest is unlawful.

22 Sec. 3. REPEAL. Section 804.9, Code 2021, is repealed.

23 **EXPLANATION**

24 The inclusion of this explanation does not constitute agreement with  
25 the explanation's substance by the members of the general assembly.

26 This bill relates to arrests by private persons.

27 Current law provides that an arrest pursuant to a warrant  
28 shall be made only by a peace officer; in other cases, an  
29 arrest may be made by a peace officer or by a private person  
30 as provided in Code chapter 804. A private person may make  
31 an arrest for a public offense committed or attempted in the  
32 person's presence, and when a felony has been committed and the  
33 person has reasonable grounds for believing that the person  
34 to be arrested has committed it. A private person who makes  
35 or assists another private person in making a lawful arrest

1 is justified in using any force which the person reasonably  
2 believes to be necessary to make the arrest or which the person  
3 reasonably believes to be necessary to prevent serious injury  
4 to any person. A private person who is summoned or directed by  
5 a peace officer to assist in making an arrest may use whatever  
6 force the peace officer could use under the circumstances,  
7 provided that, if the arrest is unlawful, the private person  
8 assisting the officer shall be justified as if the arrest were  
9 a lawful arrest, unless the person knows that the arrest is  
10 unlawful.

11 The bill provides that an arrest pursuant to a warrant shall  
12 be made only by a peace officer as provided in Code chapter  
13 804.

14 The bill repeals Code section 804.9 which provides that  
15 a private person may make an arrest for a public offense  
16 committed or attempted in the person's presence, or when a  
17 felony has been committed, and the person has reasonable  
18 grounds for believing that the person to be arrested has  
19 committed it.

20 The bill strikes Code section 804.10(1) which provides that  
21 a private person who makes or assists another private person in  
22 making a lawful arrest is justified in using any force which  
23 the person reasonably believes to be necessary to make the  
24 arrest or which the person reasonably believes to be necessary  
25 to prevent serious injury to any person.